**BRIGHAM CITY PLANNING COMMISSION MEETING**
**TUESDAY, JULY 01, 2008 – 6:30 PM**
**BRIGHAM CITY COUNCIL CHAMBERS**

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| **PRESENT:** | Joan Peterson | Chairperson |
| | Lynda Berry | Commissioner |
| | Deon Dunn | Commissioner |
| | Roger Handy | Commissioner |
| | Reese Nielsen | Commissioner |
| **ALSO PRESENT:** | Ruth Jensen | City Council Liaison |
| | Paul Larsen | Economic Development Director |
| | Jeff Leishman | Associate Planner |
| | Eliza McGaha | Secretary |
| **EXCUSED:** | Paul Fowler | Commissioner |
| | Barbara Poelman | Vice Chairperson |
| | Mark Bradley | City Planner |

**AGENDA:**

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

PUBLIC COMMENT [1] *(Per Utah Code, will receive input only, no decision can be made)* for items not listed on the agenda.

CONTINUATION OF APPLICATION #3021 / CONDITIONAL USE PERMIT FOR "ESSENTIAL FACILITIES" 345kV TRANSMISSION LINE / ROCKY MOUNTAIN POWER

APPLICATION #2383 / REQUEST FOR REVIEW OF CONDITIONAL USE PERMIT #2383 / 1047 WEST 600 NORTH / CORY WILKES

APPLICATION #2609 / BLOCK 56 LTTL SUBDIVISION / SIDEWALK DEFERRAL AGREEMENT

DISCUSSION:

- APPLICATION #3029 / KIRK NELSEN ONE LOT SUBDIVISION / SKETCH PLAN
- APPLICATION #3032 / MAPLE SPRINGS SUBDIVISION / SKETCH PLAN
- APPLICATION #3037 / CLYDE PRICE SUBDIVISION / SKETCH PLAN
- APPLICATION #3039 / JENSEN FARMS ESTATES / SKETCH PLAN

**REGULAR MEETING:**
Ms. Peterson opened the regular meeting at 6:30 p.m. Lynda Berry led the Pledge of Allegiance.

**APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES:**

> **MOTION:** A motion was made by Roger Handy to approve the May 20, 2008 work session minutes. The motion was seconded by Lynda Berry and passed unanimously.

> **MOTION:** A motion was made by Roger Handy to approve the June 03, 2008 work session minutes. The motion was seconded by Lynda Berry and passed unanimously.

In the June 03 regular meeting minutes, on line 275 the word 'exiting' should be changed to the word 'existing'. On line 457, Roger Handy wanted the word 'hopefully' stricken from his motion.

> **MOTION:** A motion was made by Roger Handy to approve the June 03, 2008 regular meeting minutes as amended. The motion was seconded by Lynda Berry and passed unanimously.

**PUBLIC COMMENT *(Per Utah Code, will receive input only, no decision can be made):***
There was no public comment.

**CONTINUATION OF APPLICATION #3021 / CONDITIONAL USE PERMIT FOR "ESSENTIAL FACILITIES" 345kV TRANSMISSION LINE / ROCKY MOUNTAIN POWER:**

> **MOTION:** A motion was made by Reese Nielsen to continue application #3021 to the July 15, 2008 meeting at the request of Rocky Mountain Power. The motion was seconded by Deon Dunn and passed unanimously.

**APPLICATION #2383 / REQUEST FOR REVIEW OF CONDITIONAL USE PERMIT #2383 / 1047 WEST 600 NORTH / CORY WILKES:**
Mr. Leishman explained the reason for this application being before the Commission again is that it has come to an impasse. Mr. Wilkes has presented documentation and a bid for a fence which he feels is appropriate to the motion. Lloyd McNeely sent in a letter stating that they reject that proposal and feel the proposed fence is not in compliance with the motion. Mr. Leishman referred to the motion on page nine of the June 03, 2008 meeting. In that motion it talked about a 6-foot fence of a type be negotiated between the property owners with the help of Mr. Leishman or someone appropriate from the planning department. Further down in the motion Mr. Handy stated that his particular belief is that a chain link fence, whether slatted or not, could not provide much protection between neighbors; his idea was some sort of wood or block fence.

Mr. Leishman stated that Mr. Wilkes would present an example of a fence that he feels is appropriate and will comply with the ordinance and would like some type of determination from the Planning Commission because the property owners feel that they cannot come to a reasonable agreement as to what is expected.

Cory Wilkes came forward. He asked Mr. Leishman to explain exactly what the ordinance called for because in his view a chain link fence with slats is going beyond the intent of the ordinance. Mr. Leishman explained that the ordinance discusses screening in areas that fall into the category of screening, that one property would be screened from another property. The Planning Commission has defined, in this case, what they feel screening is, which is a solid fence.

Mr. Wilkes presented samples of the materials he would like to use for the fence; which he said was the only material he could afford to put up. He stated that the site was approved without a fence. He

said his neighbors, Lloyd McNeely and Joyce Wiley, did not want him to build the buildings or go ahead with his site plan because a fence would not give them adequate protection overall. He said because of that he decided to construct a building there, which his neighbors thought would be great and would be better than a fence because it is tall and would screen everything there. Throughout the process of constructing the building, doors were put in which were overlooked by him as well as the Planning Commission and his neighbors; it was not intentional but no one thought anything of it. Mr. Wilkes stated that he even built the building 10-feet off of his property line at the request of his neighbors which was something he did not have to do but did so to pacify their concerns. He said to get his plan through; overall, he built this building just to screen his property from theirs. A fence was not required because the building was going to be the screen. As they went through the building process fire doors were required and now renters leave them open for ventilation.

Mr. Wilkes said he could clearly see the need for a fence but his loan closed long before there was a problem. He commented that in the minutes a comment was made that it really did not matter if he could afford it or not, if it is required by the ordinance then it is required. Mr. Wilkes stated that he is willing to do something and there were two options. He said if he is required to put a $20,000 to $30,000 fence in he will lose that building along with his house. He presented the materials he is proposing to use for screening/fencing. He had a bid on a certain price if he ordered it by a specific date and then the cost would go up. He said he told his neighbors he would have it up within 60-days and they said it would not do; they did not see the materials proposed, they just claimed it would not do. Mr. Wilkes stated that there is nothing he has ever done there that will do. He said last year he installed a dust control system because an anonymous neighbor kept calling the EPA on him. The EPA came up and stated that he was in compliance and did not have to do anything but the anonymous calls kept being made so he spent $80,000 for the dust control system. He said he cannot afford to put another $20,000 to $30,000 on a loan that he cannot do anything with. He stated that he knew that everyone agreed that it is not a matter of whether he can afford it or not, but to him it matters because he will lose that piece of property and would lose WISCO which employs 10 to 12 people year-round and up to 15 during the summer; he would also lose his home.

Mr. Wilkes stated that it seemed they are worried about someone out there intentionally spying. The building is 10-feet off the property line and people could still go back there but they rarely do. He said the problem is the doors are open and the neighbors feel like they are on display which was stated in the minutes. He said he thought the products he presented would be a good solution.

Mr. Handy commented that he thought they had taken the best shot they could to try to put the development in a situation where all parties could live with it. He said the motion was that both parties would be able to reach some agreement as to what would go up. He said it was apparent that was not possible. He said Mr. Wilkes had the right to appeal and he did not personally see the need for any further motions on the part of the Planning Commission and should let the appeal process go through and follow whatever route it takes. He restated that was his personal opinion and did not know how the other Planning Commissioners felt.

Ms. Peterson asked if anyone felt the products presented were acceptable as a fence. Ms. Berry asked if the neighbors had seen the samples. Mr. Wilkes replied that Mr. McNeely would not talk to him. He said the site was approved as it is and he is willing to put the fence in at his own expense. Mr. Nielsen asked Mr. Wilkes what the elevation difference was; the gradient between the back of the building and the adjacent property. Mr. Wilkes replied that there is a retaining wall that is about 4-feet high which runs the distance of the building; roughly 325-feet which is constructed of 2X2X4 -foot concrete blocks. Mr. McNeely's property sits about 4-feet lower than that wall. He said the fence would sit on top of the wall mounted with chain link poles on a 4X6-foot metal plate with studs and anchors. He said two different fencing contractors told him that would work with no problem. The wall would be 10-feet on the neighbor's side and 6-feet on Mr. Wilkes side. The fence would be more like 352-feet because at the north end the building does not go all the way to the creek and he

intends to go as close to the creek as he can. On the other side of the creek there is block all the way around the perimeter, which is farm land.

Ms. Peterson stated that she thought they needed to determine if the proposed fencing is acceptable to the Planning Commission or not. Mr. Wilkes commented that he would like to put up a masonry fence but that would be six-times the expense and he cannot afford that. Vinyl fencing would be $12,000 to $15,000 which is heavy and harder to anchor down. He said the proposed material he could hopefully still get was less than $6,000. He said he did not know what the cost would be for a wood fence but it would be more than what he proposed and will be harder to hold down. He said he hoped the neighbors would be happy and he would get it installed as quickly as possible.

Mr. Wilkes commented about the ongoing difficulties he has had with his neighbors. He said he runs a pretty clean operation. He restated that the site was approved as it is and he said he felt like he was bending over backward to spend $6,000.

Mr. Nielsen commented that in his opinion, the motion they made previously still stands and he does not know that the adjacent property owners have seen the proposed fence. He said he thought they were rejecting it based on what they think it will be. His recommendation is that the City Staff show the adjacent property owners the specific samples for the fence and if it is not acceptable to them, ask them why it is not acceptable. Given the fact that the 6-foot fence will be sitting on a 4-foot wall, giving the neighbors a 10-foot visual physical barrier, they need to give specific reasons as to what is not satisfactory with Mr. Wilkes proposal. If they cannot come up with anything that is not satisfactory, then by definition they have said that it is satisfactory and the Commission's previous motion stands as it is; they reach agreement and they go ahead and build the fence as has been proposed. They should come up with some specific things that Staff feels are valid and not just to be obstinate. It was stated that it must be acceptable to both parties and the Commission should not determine that as they are a third party. The motion is still valid and still applies and there is no further action required on the part of the Planning Commission. It is still between the planning Staff and the two parties to determine whether or not it is acceptable because it has been rejected without actually being looked at.

Mr. Wilkes commented that he will be satisfied with anything he can afford. Mr. Nielsen stated his recommendation was that sometime between now and the next meeting that this be discussed with the adjacent property owner and if they then cannot reach a resolution then, at that point, Staff can put it back on the agenda and then the Planning Commission can determine whether or not it is acceptable and meets the requirements of what they deem as satisfactory to provide a physical and visual barrier between properties.

Mr. Wilkes asked if, at that point, it would still give him 45-days to appeal. Mr. Leishman replied that one section states it is 14 or 15-days and another section states it is 30-days. The question is whether it is 30-days from this meeting or from June 03, which would be a decision from the City Attorney rather than Mr. Wilkes. He said his intent was to take the proposed fencing material and meet with the neighboring property owner tomorrow and he will let Mr. Wilkes know what the timeline options for appeal are. Mr. Handy commented that Mr. Wilkes could start the paperwork on the appeal process. Mr. Leishman said the appeal time frame is 30-days from a decision and there is not a decision being made at this meeting; a decision on this was made June 03, 2008. The decisions are made by motion which is evidence of a decision. Mr. Handy commented that there should be some leeway because the implementation is not based solely on his volition, it is also based on the volition of the other party. Mr. Leishman commented that once the other party sees the fence material they will need to provide something in writing stating whether or not it is acceptable to them.

**APPLICATION #2609 / BLOCK 56 LTTL SUBDIVISION / SIDEWALK DEFERRAL AGREEMENT:**
Mr. Leishman explained that this subdivision was brought before the Planning Commission by Angie Rountree and the adjacent property owner, which is located in the area of 325/329 South 200 West. At the time of the approval, there was not the ability within the ordinances of the City to grant a deferral. What was offered to them was a sidewalk agreement. In the agreement it states that, *at such time that a structure is built on, or additional improvements are made to the subdivision lots and prior to the approval of the City of such structure or improvements, the owner of such subdivision lot shall install, at owner's expense, a sidewalk in the vicinity illustrated on the subdivision plat.* This agreement was signed September 2, 2004.

Ms. Rountree's petition is that the sidewalk agreement be terminated, which was a condition of subdivision approval, and the sidewalk agreement be replaced with a sidewalk deferral agreement. A deferral states that the City Council can call for sidewalk to be installed in the future. Generally, that happens when a sidewalk is installed on adjacent properties so there is continuous sidewalk. In the case of the sidewalk agreement, if sidewalk were to be put in, there would only be 50-feet of sidewalk, which is the width of the property, across the front; there would not be sidewalk on the property to the north, which is also in the subdivision, until that property owner made some type of improvement to the home and then there would be an additional 50-feet of sidewalk. There would be no sidewalk to the north or south of these lots. Mr. Leishman stated that Staff suggested the deferral not be granted, remaining with the sidewalk agreement, and to have the sidewalk installed at this time. Mr. Leishman explained that the activation of this agreement came about by a home being built on this lot and the applicant asking for occupancy of that home. Ms. Rountree has put money for the sidewalk in an escrow account, in the event it is required.

Mr. Leishman commented that if this were a new subdivision, the ranking system in the Pedestrian Sidewalk Master Plan would apply in regards to sidewalk deferral. This lot would be ranked a 5 which allows it to be reviewed by the Planning Commission for consideration for deferral recommendation to City Council. For sidewalk to be installed in that area, the property owners could decide to install and pay for it. Another way would be to have a special improvement district participation from the City in that they arrange for it to happen and the homeowners can pay for that sidewalk over an extended period of time through monthly payments.

Ms. Dunn commented that there are a lot of areas without sidewalk and areas with sidewalk that goes nowhere and she asked if there was any purpose in having them. Mr. Leishman quoted from a previous City Councilmember who made an observation 20-years-ago which was that if sidewalk or curb and gutter is installed it may encourage the neighbors to do the same. The question is if a 50-foot length of sidewalk has a purpose other than satisfying an ordinance or an agreement. With sidewalk it is more beneficial to have it the full length of the block rather than only a few feet.

Ms. Peterson commented that she has lived in Brigham for a lot of years and has done a lot of walking. In that time, she has not seen any sidewalks go in on any of the streets that have little pieces of sidewalk here and there and she does not think it adds to the safety of pedestrians because they just do not go up on sidewalk that is one lot wide; they just keep walking in the street. She would like to see sidewalk everywhere but one little piece does not improve it.

Angie Rountree and Marian Jensen came forward. Ms. Rountree stated that she owns both parcels. She said they split them off and was actually an owner with two other people at that time. During that time they sold to the Jensens. She had since that time bought out the other two owners to specifically build a house there.

Ms. Rountree presented some pictures to show the neighboring lots in the area. The neighbor to the north has three trees lined up and the neighbor to the south has a garden that takes up a half acre. The only other neighbor on the block, to the south, thought it was ridiculous. She said if they had to

put in the sidewalk they would have to rip out both her driveway and the Jensen's driveway including sprinkling systems. She thought it would be a safety hazard. She talked to two different contractors who said they recommended not putting in the sidewalk at that time because by the time the City is ready to put it in it may not match up or be cracked or ruined. Ms. Rountree said she signed the sidewalk agreement with two other owners. She said she is a little cloudy on how the Jensens would be involved as they are new owners. They do not want sidewalk.

Mr. Leishman commented that the agreement stated *this agreement is binding upon in years to the benefit of the respective parties hereto, their successors, heirs, and assigns,* which is attached to the property and whoever purchases it is obligated to the same obligation. Ms. Rountree stated that she does not mind putting in a sidewalk and did not have a problem with that. They do have the money in escrow; she just does not see it as being necessary at this time, neither do the neighbors. It will be an eyesore with no other sidewalk around it as well as a hazard. She said she did not know if or when a sidewalk would ever be put there but she said she could almost guarantee it would be beat up and then they would have brand new sidewalk with 50-feet of messed up sidewalk. She said she thought it would be best if it was put in all at the same time.

Ms. Berry commented that she felt none of the arguments Ms. Rountree had really applied to the situation because she agreed to put in the sidewalk during a time when there were no deferrals and she said she did not feel comfortable as a Planning Commissioner going backwards in applying new ordinances to old decisions. Ms. Rountree said they had just built the house this year, the lot had sat vacant for three years and in her opinion the brand new house should apply to this year's rules. Ms. Berry said she did not know if the house applied as it is the sidewalk agreement that was in effect before the deferral ordinance came to be.

Mr. Handy commented that he has a prejudice that he thinks sidewalks are great especially for kids and whenever they can be put in or are required to be put in he likes to see them in because they do encourage people to use sidewalk. He said they have a concern as Planning Commission members because they have an agreement, which is not that old, that has been signed and agreed to by all parties. If they come back as a Planning Commission and, in essence, throw that agreement out, he is concerned that people will think that whatever agreements are made, they can always come back and be undone by the Planning Commission. Ms. Rountree agreed with that and commented that every case will be unique and different. In the case of their street, it is not needed at this time. She knew it would need to be put in but at that time it was also to be at the expense of two other owners. She said she thought each particular situation should be looked at. She said it will be a huge expense as they will have to rip up both driveways and sprinkling systems to put a sidewalk nobody is going to walk across the street to walk on.

Ms. Rountree said she agreed it is beautiful to have, especially in new subdivisions, but to put a brand new house in an area were the houses are 70 to 80 years old and have a little piece of sidewalk in front of that house, she did not see what good it would do and neither do her neighbors. She reiterated that every situation should be looked at and exceptions made. She said in her mind she was thinking when other sidewalk gets put in that will be perfect because it will all match up and be brand new rather than putting it in now and years down the road have the sidewalk surrounding it be 50-feet of ugly sidewalk. Mr. Handy asked if she forgot about the sidewalk when they put in the driveway and the sprinkling system. Ms. Rountree replied that she had never seen a driveway poured without the sidewalk being in there. She said she was out of town when it was poured and she asked those who did it why they did not put the sidewalk in and their reply was that no on else on the street had sidewalk and they did not think they needed to.

As far as Ms. Jensen's driveway, her home was built about 1920 and the driveway was already there. Ms. Rountree stated that she does not mind paying for it when the other sidewalk goes in. She said the cement contractors she talked to recommended that it was not a good idea to put it in. She said

the renters she has in there now have a little 2-year-old baby and one on the way and she did not think it would be safe for her because there will be those edges people can trip over and that is the reason she decided to bring it to the Commission.

Mr. Nielsen asked what would happen if they took no action. Mr. Leishman said a recommendation had to be made to the City Council. Mr. Nielsen asked if there were a lot of other agreements, like this one, that preceded the sidewalk deferral process that are hanging out there waiting for some action to take place as opposed to this process, that under the current rules something else may have been done differently. Mr. Leishman said there are probably 10 but less than 15 similar cases. Mr. Nielsen commented that, in his opinion, whoever put the driveway in was negligent. In his view, there is a process of obtaining a sidewalk deferral and all those cases should be looked rather than waiting until the time something gets built. He said in today's world they would probably recommend deferral to the City Council and the only thing hanging it up is there is a signed agreement and it is probably not a good precedent to disregard an agreement just because things have changed. Ms. Berry commented that could be applicable to many other items they agreed upon. Regardless of the Commission's recommendation this will go to City Council for final decision.

Ms. Dunn asked what happened to start having deferrals. Mr. Leishman explained that if there are long lengths of sidewalk it is beneficial as there is ample room to use the sidewalk. The deferrals came about because it was questioned if it was wise to have 50-feet of sidewalk on a section of a block or is it much more prudent to have sidewalk go in the full length of the block so it is useable and not just there to satisfy an ordinance. Mr. Handy commented that it seemed Mr. Leishman was taking the position that it is not advisable to require the sidewalk but the Staff comments seemed to be unanimous in their desire to have sidewalk installed. Mr. Nielsen said he thought the most unanimous comment was no comment. Ms. Berry said it appeared that the applicant forgot to put the sidewalk in and now is coming to try to get relief from the Commission. Ms. Rountree commented that it was four years ago and she did have two other owners on the property with her and nothing was brought up since then and she did forget.

Mr. Handy asked Mr. Leishman why the Staff members who commented were quite firm in their belief that sidewalk should be required to be put in. Mr. Leishman commented that he had personal opinions that he did not want to get into but said what is good about decision making is having findings of fact. He would like to see the Planning Commission make their decision based on findings. Mr. Handy said that was the problem because the Staff, in there report to the Commission and their recommendation to not approve deferral, put down no information about findings of fact that they should follow or anything of that nature which is something they usually have on any item that comes before the Planning Commission. Mr. Leishman agreed that was the problem and is the reason he was bringing it to them as a Staff evaluation stating what the Staff said but it is very difficult because the Staff did not state a reason why. He said he had personal opinions as to why they said what they did but his opinions are really not relevant and he did not want to speak in behalf of those Staff members. He said they are in a position where Staff did not tell them why and they can only speculate as to their reasons.

Mr. Nielsen stated it was a City Council recommendation that the Planning Commission come up with a sidewalk plan, which is what they did. Mark Teuscher worked it and came up with a sidewalk plan where the entire city was outlined where there was sidewalk and where there was not sidewalk, it was prioritized and a procedure put in place as to determine when sidewalk would be automatically deferred, considered for deferral and never deferred. This process was to simplify and put a single point of view on a sidewalk plan for the City.

> **MOTION:** A motion was made by Roger Handy to ~~table~~ continue this item until the next meeting and ask Staff to come back and present them with a normal staff evaluation with findings of fact on both sides

of the issue so the Planning Commission, if they make a motion, can make the appropriate motion based on the facts of the case and not do it off the top of their head. The motion was seconded by Lynda Berry.

Discussion: Mr. Nielsen said, as opposed to tabling it, he would like to see the wording changed to continue the item until the next meeting. Mr. Handy and Ms. Berry were both agreeable to the change in language.

The motion passed unanimously.

**DISCUSSION:**

- **APPLICATION #3029 / KIRK NELSEN ONE LOT SUBDIVISION / SKETCH PLAN:**

The intent of a sketch plan is to come together and talk about the issues and decide what needs to happen for the benefit and good of all and jointly figure out how to resolve them.

This is on the west end of Georgia Drive, north of 1100 South and directly west of the Golden Spike RV Park. On the south side of the property are storage units, which are on lot 1, and the balance of the property is pasture. Mr. Nelsen is asking for Georgia Drive, which is a public street, to be dedicated to the end of the storage units, but not improved at this time, and that the one lot subdivision encompass those storage units so they can be sold off separately. There are three components, the storage units adjacent to the property adjacent to 1100 South, the second component is a dedicated street to the end of those storage units and the third component is the remainder piece which is the balance of the property. Currently, those three components make up one piece of property. The City Engineer, Kent Jones, recommended that the future street master plan for this area possibly be determined at this time. The reason that street cannot be improved is there is going to be a new street at the end of the property which will extend to the north and south into Perry. It is unknown the distance that street will have to be back from 1100 South and a similar situation as on Medical Drive and 1100 South where there are two gas stations with traffic movements which are in constant conflict is not wanted. There needs to be ample length so as to have stacking. At this point in time, UDOT will determine how far back the road has to be that will connect to the west street which will connect to 1100 South. Mr. Jones suggested doing some planning right now so it is known where that street is going to be when it is discussed with UDOT. If we know exactly what they want done then this street could be improved at that time. Currently, when streets are dedicated they are improved by the developer and transfer ownership to the City. There are some concerns with the plat that can easily be remedied.

Mr. Nielsen commented that in the overview there is a development agreement that is recorded against the other two parcels that should obligate or tie down the improvements to the street as such time as that takes place which should answer the question of who would pay for improvements. He said he does agree that there should be some idea as to what will happen to that road in the long term. Mr. Handy asked if Georgia Drive is intended to go to 1200 West. Mr. Leishman replied that it is. Mr. Leishman explained that Kirk Nelsen and his brother jointly own the storage units with a couple. He wants to split off the storage units from the property and sell them. The road is dedicated about 50-feet into their property. When the storage units were brought to the Planning Commission the applicant asked for access off the end of this street but was denied because the ordinance says they will have access off the side of the street so they willingly dedicated 50-feet of street into their property. The ordinance requires that when a lot is created a street has to be dedicated to the end of the subdivision. If the turn in the road needs to take place prior to the end of where he is proposing it to be, the dedicated street would have to be vacated and replatted and taken more sharply to the north. It is intended that the applicant take the comments made and implement them in a preliminary plat to be brought back to the Planning Commission as a public hearing.

- **APPLICATION #3032 / MAPLE SPRINGS SUBDIVISION / SKETCH PLAN:**

This is addressed as 1000 South Medical Drive. The property extends from Medical Drive to 800 west. North of this property is Dr. Sumko's office and south of this property is the Department of Workforce Services building. Part of the property is already encumbered by lot one of the Greener Pastures Subdivision and property cannot be resubdivided without having it vacated. Lot one will need to be vacated out of the subdivision it currently is in and that process is underway. It will be vacated so it can be added to and increased in size.

Keith Sorensen, Architect, came forward. He said what is anticipated on lot four is an assisted living and independent living facility. The other three lots will all have medical related office buildings on them. There will be an access roadway constructed that will access all four lots.

Mr. Leishman asked Mr. Sorensen if there were any issues that needed to be discussed here. Mr. Sorensen said there really were not and they would get them cleaned up and taken care of. He showed the Commissioners a rendering of what would be the assisted living building. It will be a two-story structure with about 64 units, 32 of those as assisted living. It is intended to address the issues of the continuum of aging. It is intended that the applicant take the comments made and implement them in a preliminary plat to be brought back to the Planning Commission as a public hearing.

- **APPLICATION #3037 / CLYDE PRICE SUBDIVISION / SKETCH PLAN:**

This is a two lot subdivision. The northwest corner of the property will be the Clyde Price home and the southeast corner of the property will be the Fitness Quarter property. This came to the Planning Commission originally as a multiuse P.U.D. The home was the residential use of the property and the Fitness Quarter was a commercial gym-type facility both functioning on one piece of property. The property has been subdivided improperly and there will need to be some cross-easements. It is intended that the applicant take the comments made and implement them in a preliminary plat to be brought back to the Planning Commission as a public hearing. The improper lot will need to be ballooned just a little bit to be increased to 8,000 in the subdivision plat.

Hollis Thompson and Clyde Price came forward. Mr. Price stated that it was surveyed to meet 8,000 square feet and it came out to be 7,999.99. He said if you go to his south property line and move the property line the width of that string it will come out to 8,000 square feet. Mr. Nielsen asked if either of the property owners had any comments with respect to the Staff evaluation. Mr. Price asked what constituted a parking lot and what surface had to be in place to make a parking lot. Mr. Leishman referred him to the Ordinance 29.26. Within that ordinance it talks about parking lots which defines width, length and access aisle. The original approval was much more restrictive. The current standards, which will regulate these developments, are much more liberal and will help much more than the previous one.

Mr. Price asked if a parking lot has to be paved and striped. Mr. Leishman replied that it did. For residential, it is required to have two parking stalls but pavement and striping are not required. Commercial buildings that are required to have parking need to be paved no matter where it is located within the City, if a certain quantity of stalls is required. Mr. Price said the reason he was pursuing this is that there is a facility called Physiques Finest that is a 10,000 square foot building that has 14 parking stalls. He said by definition a 10,000 square foot building would require 50 parking stalls and so that facility would have approximately 36 people that would have to park on the street. He asked if street parking would qualify. Mr. Leishman said it is allowed but is not within the quantity count. Mr. Price asked if he could get a variance on the parking. Mr. Leishman replied that there are certain things within the new ordinance that talk about availability of parking on adjacent properties. He said he thought it also talked about availability of parking on streets. He said the point he was trying to make was that the new ordinance is much more liberal today than it was previously. Mr. Price asked if they could possibly reduce the parking by a few stalls, with some discussion. Mr. Leishman replied there are a lot of opportunities and the point the Staff was trying to make is how to

solve the issues that have been put forward.

Mr. Handy asked Mr. Price if he was concerned about losing the parking stalls behind his house. Mr. Price replied that he was concerned about giving an easement across his property for parking. His attorney advised him to consider a contract rather than an easement. He said he wanted to establish the fact that there is another facility similar to the one Hollis Thompson owns that is way short of sufficient parking. He said one has to be really careful when driving in that area because of all the on-street parking.

Mr. Nielsen suggested that the issue raised be worked out prior to bringing the application to the Planning Commission as it is not their position to answer that and they may decide that everyone has to have the required parking everywhere unless there is some reasonable accommodation that is supported by Staff. Mr. Leishman commented that is typically what Staff does and they would be willing to do that.

Mr. Price said when they originally presented this, if one parked on his property nose-to-tail someone would have to move their vehicle so another could get out. He said he runs into that all the time when he parks in that area. He said he has an access on the north side of his property. If he cut about 6-feet off his storage shed, he would have a comfortable route around his house where he could park, back-up and pull out on the street; which is an option he is looking at. On the north side of K&H Fitness there is 28-feet of parking area that could be utilized there. If they have trouble backing up and getting out of it, he has room there to do a contract to give them a little space to back up onto his property to be able to pull out forward.

- **APPLICATION #3039 / JENSEN FARMS ESTATES / SKETCH PLAN:**

Mr. Leishman explained that there are three components to this application. This is the Reese Jensen family property owned with another individual. Mr. Jensen lives on lot 1, which is on the northwest corner of this concept plan. This is toward the end of Forest Street about 3200 West. One of the components is a zone change. Currently it is zoned A-5 (Agricultural, 5-acres) and is proposed to be rezoned to RR-1 (Rural Residential, 1-acre) with animal rights.

Jeff Packer came forward and explained that there are three current parcels; the Reese Jensen home, a 19-acre parcel behind it and the family home on lot 30 with a parcel adjacent that runs behind it for a total of about 40-acres. There are two large parcels and one home. The family home on lot 30 is currently part of one of the larger parcels. Mr. Leishman said the Staff will handle the lot alteration in-house.

This sketch plan is a proposal of 31 lots; there are some Staff comments and suggestions. There are some numerous concerns, primarily infrastructure such as getting water, sanitary sewer and Brigham City power out there. Staff has itemized concerns that need to be addressed as this is brought together in a formal application.

Mr. Packer clarified that Lazon Reeder is the trustee for this family trust. Reese Jensen is not the decision maker for the estate; he is a member of the estate. Mr. Packer said he had been appointed by the estate as their agent to help accomplish the adjustment that the Staff is doing and the request for the rezoning. He said he thought it would be helpful in making the request for the rezone to show them what might be a theoretical concept plan. The estate of the Jensen's may or may not, probably will not, be doing the actual development so the Staff comments are specifically pointed toward what would happen if it develops as it would in the concept plan. He said he would like to address that even though it is not their primary purpose. The primary purpose is to seek the rezone. The concept plan is kind of moot other than they wanted to say what would happen if this developed and how would they do 1-acre lots.

Mr. Packer stated that he had been working on other projects for years, which he will leave unnamed, that require Brigham City to look at creating a rural residential development ordinance. Brigham City currently does not have one that covers the typical rural residential issues. He said he would hit on some of the Staff comments that are and are not legitimate. He said he approached Bruce Leonard because he wanted to see if he thought this was a reasonable thing to ask the Planning Commission to look at a separate development ordinance that would happen if they were in a rural residential environment, i.e. high-back curb and gutter, width of the paved streets and paved sidewalks. Typically, in rural residential developments you typically do not see those requirements. He said he believed there is a great need for that type of an ordinance for Brigham City because there is an annexation plan and as a city and community we have reached out and annexed a large portion of property west of Brigham City and there are other plans, if property owners request annexation, to go to the north, the northwest and possibly to the east. Mr. Packer said he thought it was important, even imperative, that the Planning Commission begin a process of entertaining a rural residential development concept.

Mr. Packer referred to the Community Development comment that drew attention to the fact that a couple of the lots lack the 150 minimum lot width for this type of development. He said that was fine and they needed to correct that. He said if they were proposing this development, he said he thought it was great to have a rural residential lot size if there will not be clustering. He said to remember that there are other types of rural residential developments where there can be clustering of lots and have open spaces surrounding them. He said he was startled by the Emergency Services comment under item number three that states *Brigham City Fire Department is an urban fire department and not a rural department, therefore, different standards apply.* He said that still startles him and he probably would need to visit with the Staff to understand that fully. He commented that if we are going to be a community that has both urban-style development and rural-style development then there is a need to have facilities and ordinances that cover those.

Mr. Packer said in regards to the Engineering comments under number two it talked about sanitary sewer. He said in this particular area there are septic tanks, which is how the area has developed. In a rural residential development ordinance there could be an exception for septic tanks. He said he thought that should be considered. He did not think it would be reasonable in every situation to have a sewer system but if he were a Planning Commissioner he would insist that sewer lines be installed even though septic tanks were going to be utilized in the event that someday the sewer system may reach to that point or there may be a need due to ground contamination or other reasons. In this particular case he said he was not sure it justified it. In regards to item number four, *as a minimum, the homes will probably need to be constructed with interior fire sprinkler systems.* He said that presumes there is inadequate water brought to the property to support fire extinguishing. He commented that there should be adequate water to support this number of developed lots and if there is it would require a larger line extended to this location. He said interior fire sprinkling systems are extremely expensive and he said he would like to understand the logic for that.

Mr. Packer commented that in the spirit of what he was doing he would very much like the approval of the Planning Commission, at some point in time, to rezone this property to Residential Rural, 1-acre lots. That rezoning does not require a plat. He stated that was all the family has authorized him to request. He said they actually initiated a drawing so it would be illustrative as to how the property could be used with that type of requirement.

Mr. Packer stated that with the request for rezoning there were no findings of fact that he found in the Staff comments. Mr. Leishman said that was because that issue was not on the table; it had been advertised but Staff could not get it on the agenda for this meeting but is scheduled for a future meeting.

Mr. Larsen commented that if they looked at the zoning map, the property that Mr. Packer is

representing was annexed in about 2002 or 2003. That area was annexed at the request of some of the neighboring property owners. They owned the vast majority of the private property that was annexed at that time and this property came in with it. When that happened, he said they worked with them for quite some time on what was called a planned district zoning ordinance which included a lot of things Mr. Leishman talked about. At the time, it was a rural residential atmosphere they were looking for. The intent for the large pink area on the zoning map was always open space. Mr. Larsen said they pursued and he thought they may have actually received approval of wetland mitigation on that property. He said they wanted to make sure that property remained as it was with the possibility of mitigation bringing some revenue. The lighter green section on the map, between the pink on the south and the green on the north, was a 1-unit per 5-acre density with very limited residential uses with the potential for what they were hoping, at that time, may be a hunting lodge or something to that effect. The other areas were rezoned with an RR-1 Planned District that has no minimum lot size but has a density restriction as to not exceed 1-unit per acre. As an example, if he had 10-acres of land he could design so that when he is done he would have lots that are ¼ to ½-acre in size but there would be no more than would give them a 1-unit per acre density. That allows one to design much more efficiently in areas where there may be land restrictions or constraints associated with the land. It allows for elimination of some of the cost of infrastructure for the developer and the City in maintaining sewer, water and electrical lines, streets and such for about a 1600-foot deep piece of land as opposed to a cluster that would reduce the size of that. There may be some benefits that they want to look at in that kind of approach. He said he believed they also had discussion of a rural road profile.

Mr. Larsen said it had been a few years since he looked at that and he would have to go back and take another look at it. He said it is not that they do not address the issue of pedestrian use but the way it is addressed is somewhat different than just rigid sidewalk, park strip, street and approach. A lot of the storm drainage was handled through grassy swale areas rather than curb and gutter. There were issues of fire protection and there is a fairly extensive area in there that deals with it and is called an Urban Wildland Interface area. Usually those kinds of things are thought of in terms of a mountain environment but in this case it still applies because you have a 70,000 to 80,000-acre wildland out there that has the potential to grow some pretty high vegetation that may dry out and catch fire. The fire issue is one to look at. There is a host of things to look at. Lighting is an issue and in trying to create a wetland mitigation bank and potentially a duck hunting type environment, they wanted to make sure lighting did not glare out into areas that may be used for nesting and that type of thing. Another issue with lighting is, because of the rural environment, to preserve more of the dark sky in preventing glare and not directing light up into the sky. Mr. Larsen said they may have a template already written that could be used toward something like this. He said in his opinion, he thought the City and the developer would be better off with that approach.

Mr. Packer clarified that the current ordinance has a template that addresses this but it is more under a planned unit development concept so rather than the typical subdivision one would apply under a P.U.D. format and then negotiate some of those terms.

Mr. Larsen said that some very high quality, very attractive developments like this can be found in many areas, resort areas particularly, that utilize that clustering to reduce costs for infrastructure and maintenance and also provide more variety in lot types. Mr. Packer said that was very interesting and very acceptable from this concept it just was not addressed in the Staff's review, which is why he felt he needed to bring it to this group who really are the Planners to formulate the future planning. There are developments such as Mahogany Canyon which is still a reality in the future. There is other acreage to the north of Brigham City that he believed will get annexed over time requesting services and will want to have a little rural atmosphere rather than the traditional housing subdivision. The clustering concept is great and Mr. Packer said he was an advocate of that, but for this application he is just requesting a rezone.

Mr. Nielsen said it raised some questions in his mind and using the property out west as an example he said it is a relatively large expense to provide infrastructure for that so the developer would have to have deep pockets to do that. Beyond that, once the City has to provide, support and maintain that, it costs the City a lot more to maintain that service for the 20 or so residences in that area than it does for the same number of residences within the City. He said it seems that if they are not careful they would have a mechanism whereby a large number of people within the city are subsidizing City service for a very few people in a different part of the city. Mr. Larsen commented that is where the concept of impact fees comes up to try to equalize that question. He said his feeling is that once the infrastructure is in, at least for the portion within the subdivision, the maintenance cost is probably not any more than it would be in town. He said he thought the expense would be in a long stretch of infrastructure that does not have anyone hooked into it thereby the revenue coming into it is not keeping up. A lot of it is already there, at least to the Bird Refuge Visitor Center, in regards to water and sewer lines.

Mr. Packer said he thought the fundamental question is one that this body is equipped to at least discuss, which is what kind of community will Brigham City be and what kind of community does Brigham City want to be. He said he has 30-years of experience in helping people locate either here or someplace else. He said we have not had a diverse housing base; we have had a very narrow housing base and for some people they have chosen to go some place else because the housing types they looked forward to did not exist here. We have lost, for 20 years, 75% of the Thiokol workers and almost 100% of their executives. They were locating here 30 to 40 years ago. They have chosen not to locate here for a lot of reasons, the significant reason was housing. Mr. Packer said we need to broaden the types of housing opportunities that we have. Having little rural ranchettes where a guy can have a horse or parents can provide a cow and their kids can have 4-H projects or other types of rural residential uses are important and they are very costly. One would pay $250,000 in Harper Ward to purchase one lot. He asked how many people can afford that and said we have effectively said we do not want those kind of people in our community.

Mr. Packer said we need the high end, middle range and some low end. He said we have been pretty good about having homes in the mid to low end range but we are losing the people that are building in a different range. He said he is indicating that this is one type of residential use that we do not currently offer; we do not have it. He said if someone comes to him to find a 1-acre lot, he cannot find it here and people are leaving our area because of it and he said he thought that needed to be addressed. He asked if increased costs were worth the benefit of attracting the variety of people that we need to have a really nice diverse community and diverse economic strata of people. There are a lot of issues that need to be discussed. That is why Mahogany Canyon will come back, which is high end and will try to attract those people who are the major income earners who are sometimes commuting from Virginia, North Ogden, Ogden Valley, Cache Valley or Southern Idaho. Mr. Packer said some of these people are going any place but here, which is a tragedy. He said they come to him to help them find a house and he takes them to where there are the types of housing they want. He said we are not providing that need. When this opportunity came he thought it was great because it is something that is needed.

Mr. Nielsen commented that they also need to consider if it is worth it to the City to get 20, 30 or 40 of these because it will be a long time before Northern Utah or the Brigham City area has a demand for 40 million dollar houses.

Mr. Leishman said this infrastructure may be the catalyst; certainly everything on the south is within Brigham City Corporate limits and everything on the north is County property. Certainly if there was infrastructure down there the north side could be annexed. This may be the catalyst to bring other development in on the north side and foster the same type of uses and same type of developments. There is great potential on the north side where as a lot of the south side is restricted due to the restrictions which have been intentionally put on that property which do not exist on the north side.

Mr. Nielsen commented that as a city they need to look long-term and make sure that the existing 10,000 residents in the city do not end up paying an extra amount to bring in 40 or 50 bigger places.

Mr. Packer added that once development occurs down there, that area will develop in probably a light fashion. He said he thought there would be a lot more development that occurs in that area over time.

> **MOTION:** A motion was made by Reese Nielsen to adjourn. The motion was seconded by Deon Dunn and passed unanimously.

The meeting adjourned at 8:47 p.m.

*This certifies that the regular meeting minutes of July 01, 2008 are a true and accurate copy as approved by the Planning Commission on August 19, 2008.*

*Signed: _____*

*Jeffery R. Leishman, Secretary*